

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SIXTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 22445 of 2004

Between:

G. Anjanamma, W/o. G. Shivagovindu, F.P. Shop Dealer,
Thimmanayunipeta Village, Kolimigundla Mandal, Kurnool District.

... PETITIONER

AND

- 1 The Joint Collector, Kurnool, Kurnool District.
- 2 The Revenue Divisional Officer,

Nandyal, Kurnool District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue a writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 2nd respondent in issuing the proceedings in R.C.E.No.661/2004 dt. 7.10.2004 as illegal, arbitrary, and violative of principles of natural justice and also against the provisions of Control Order 2001 and consequently direct the respondents to restore the authorization of the petitioner by suspending impugned proceedings pending the appeal before the 1st respondent.

Counsel for the Petitioner: MR.U.RAMANJANEYULU

Counsel for the Respondent Nos.1 and 2 : GP FOR CIVIL SUPPLIES

The Court made the following :

-

-

-

-

ORDER:

The petitioner is a Fair Price Shop dealer of Thimmanayunipeta village of Kolimigundla Mandal, Kurnool District. She was issued a show-cause notice on 7.09.2004 with certain allegations. Through the order dated 7.10.2004, the second respondent suspended the authorization of the petitioner. Aggrieved thereby, the petitioner filed an appeal before the first respondent, together with an application for grant of stay. So far, no orders are said to have been passed. The petitioner challenges the inaction of the first respondent, as well as the order dated 7.10.2004 passed by the second respondent.

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

A perusal of the order dated 7.10.2004 discloses that the petitioner was issued a show-cause notice dated 7.09.2004, and on receipt of the same, the petitioner submitted her explanation on 16.09.2004. These two are mentioned at references 2 and 3 of the said order. Once the explanation is submitted, the second respondent was empowered under sub-clause (4) of clause 5 of A.P. State Public Distribution System Control Order, 2001 (for short "Control Order, 2001), either to cancel or to suspend the authorization of the petitioner. Before taking such an action, he was under obligation to refer to individual charges, the explanation submitted by the petitioner, and the findings therein. Except making a reference of show-cause notice and explanation, the second respondent did not deal either with the charges contained in the show-cause notice, or the explanation offered by the petitioner. Reference is made to the subsequent reports said to have been made by the Deputy Tahasildar and the Mandal Revenue Officer. If the second respondent received any further information, he ought to have expanded the scope of show-cause notice by issuing a supplementary show-cause notice. It was not at all open to him to pass the present order. Once he had issued a show-cause notice and the petitioner submitted her explanation to the same, the impugned order clearly violates the clause 5 (4) of the Control Order, 2001.

This Court certainly would have directed the first respondent to take these aspects into account and pass appropriate orders in the appeal. However, such a

course would further delay the matter and result in complications.

Hence, the impugned order dated 7.10.2004, passed by the second respondent is set aside, and the second respondent is directed to conclude the proceedings as early as possible and not later than four weeks from the date of receipt of a copy of this order. In case, he feels that there exist any additional charges than what already contained in the show-cause notice, it shall be open to him to issue a supplementary show-cause notice. In such an event, the petitioner shall be entitled to file an explanation to the same.

In view of the directions issued by this Court, the appeal pending before the first respondent shall become superfluous and he need not pass any orders therein.

The writ petition is accordingly allowed. There shall be no order as to costs.

6th December, 2004

Note: Issue copy in three days.

(B/o)

pan

To

- 1 The Joint Collector, Kurnool, Kurnool District.
- 2 The Revenue Divisional Officer,

Nandyal, Kurnool District.

3 Two C.Cs. to the Government Pleader for Civil Supplies,
High Court buildings, Hyderabad (OUT)

4 Two C.D.copies